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EXAMINER

LEE, TOMMY D

ART UNIT PAPER NUMBER

2624

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/975,027	Applicant(s) ROY ET AL.	
	Examiner Thomas D. Lee	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to applicant's amendment filed July 28, 2005.

Claims 1-21 are pending.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,424,996 (Killcommons et al.) in view of U.S. Patent 6,076,166 (Moshfeghi et al.).

Regarding claim 14, Killcommons et al. disclose a method for facilitating the transmission and display of medical images, via a server and a network, the method comprising: acquiring and digitizing said medical images using an acquiring device (Killcommons et al.: column 7, lines 23-43); transmitting said medical images to said server via said network (column 7, lines 44-51; column 7, line 66 – column 8, line 8); assembling a web page, including said medical images, at said server (column 9, lines 6-41); transmitting said web page to a first user (column 10, lines 35-40); transmitting said web page to a second user (column 14, lines 58-63); displaying a message area, accepting one or more messages input by said user and displaying said one or more messages in said message area (column 14, lines 48-57).

Killcommons et al. do not disclose that the first and second users are authorized, or that the users input a unique identifier. Moshfeghi et al. disclose these limitations

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(Moshfeghi et al.: column 6, lines 49-62). It would have been obvious to one of ordinary skill in the art that allowing only authorized users to view the medical images ensures patient confidentiality, data integrity and security. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for input of a unique identifier by each one of plural authorized users, such as disclosed in Moshfeghi et al.

Regarding claims 15 and 16, Killcommons et al. disclose displaying a list including the names of said first and second authorized user (Killcommons et al.: column 15, lines 47-53); and storing said messages on said server (column 16, lines 14-28).

4. Claims 1-13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killcommons et al. in view of Moshfeghi et al., U.S. Patent 5,360,446 (Kennedy) and U.S. Patent 6,344,853 (Knight).

Regarding claim 1, Killcommons et al. disclose a method for facilitating the transmission and display of medical images, via a server and a network, the method comprising: acquiring and digitizing said medical images using an acquiring device (Killcommons et al.: column 7, lines 23-43); transmitting said medical images to said server via said network (column 7, lines 44-51; column 7, line 66 – column 8, line 8); assembling a web page, including said medical images, at said server (column 9, lines 6-41); and transmitting said web page to a user (column 10, lines 35-40).

Killcommons et al. do not disclose that the user is authorized, or that the user inputs a unique identifier. Moshfeghi et al. disclose these limitations (Moshfeghi et al.:

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column 6, lines 49-62). As mentioned above with respect to claim 14, it would have been obvious to one of ordinary skill in the art that allowing only authorized users to view the medical images ensures patient confidentiality, data integrity and security. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for input of a unique identifier by an authorized user, as disclosed in Moshfeghi et al.

Killcommons et al. in view of Moshfeghi et al. do not disclose displaying a template on said web page, wherein said template comprises an image which said authorized user may place on one of said medical images. Kennedy discloses overlaying a template on a medical image (Kennedy: column 13, lines 49-62; column 14, lines 20-23). While the template disclosed in Kennedy is not displayed on a web page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image of a product, as disclosed in Knight (Knight: abstract). Knight further discloses displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information cost, description, indication of use, and instruction for use (each of Figs. 3A-3F show the display of the name of the manufacturer, "PromoCity.comTM"). One of ordinary skill in the art would have recognized that by applying the teaching of Knight, a physician would be able to overlaying a template on a medical image obtained from a web page, so that the physician may be able to determine a proper design of a medical device to be implanted in a patient. Therefore, it would have been obvious for one of ordinary skill in the art to

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modify the combined teaching of Killcommons et al. and Moshfeghi et al. by providing for the display of a template placed on a medical image on a web page, as suggested by the combined teaching of Kennedy and Knight.

Regarding claim 2, Knight discloses providing a list of templates, and allowing said authorized user to select said at least one template from said list of templates (Knight: column 6, lines 19-37).

Regarding claims 3-5, Kennedy discloses a template including at least one image of a medical device (Kennedy: abstract (implant topology)); at least two different sizes of the same medical device (column 14, lines 20-23 (outline views of implant scaled to actual x-rays)); and enabling said authorized user to move said at least one template to a plurality of locations on a viewing device (column 13, lines 49-53).

Regarding claim 6, Killcommons et al. in view of Moshfeghi et al., Kennedy and Knight do not disclose enabling said authorized user to move said at least one of said one or more medical images to a plurality of locations on a viewing device. However, it is well known in the art to provide a means by which images on a display can be moved from one position to another, and it such movement would have been an obvious modification of the combined prior art to one of ordinary skill in the art, so as to facilitate viewing of the displayed image.

Regarding claim 7, the cited references do not disclose allowing said authorized user to choose whether said at least one template will have a black or white color. However, a feature for enabling selective viewing of a displayed portion of an image in either black or white is well known in the art for highlighting the portion, and it would

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have been obvious for one of ordinary skill in the art to provide such a feature in combined prior art, so that the template can be clearly distinguished from rest of the image.

Regarding claims 8-10, Killcommons et al. disclose allowing said authorized user to adjust gamma correction for said at least one of said one or more images (Killcommons et al.: column 14, lines 39-44 (contrast change affects gamma correction)); and enabling said authorized user to manipulate one or more display characteristics of said at least one of said one or more medical images, wherein said one or more display characteristics include contrast, gamma settings, image magnification, image size reduction and image rotation (column 14, lines 39-47).

Regarding claims 11 and 12, Killcommons et al. further disclose allowing said authorized user to access a database of information while viewing said medical images, wherein said information includes general medical information and patient information (Killcommons et al.: column 16, lines 17-21).

Regarding claim 13, Killcommons et al. disclose a method for facilitating the transmission and display of medical images, via a server and a network, the method comprising: acquiring and digitizing said medical images using an acquiring device (Killcommons et al.: column 7, lines 23-43); transmitting said medical images to said server via said network (column 7, lines 44-51; column 7, line 66 – column 8, line 8); assembling a web page at said server (column 9, lines 6-41); allowing said user to place two connecting lines on one or more of said medical images, measuring an angle

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formed by the junction of said two connected lines and displaying said measurement of said angle to said user (column 14, lines 26-32).

Killcommons et al. do not disclose that the user is authorized, or that the user inputs a unique identifier. Moshfeghi et al. disclose these limitations (Moshfeghi et al.: column 6, lines 49-62). As mentioned above with respect to claim 14, it would have been obvious to one of ordinary skill in the art that allowing only authorized users to view the medical images ensures patient confidentiality, data integrity and security. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for input of a unique identifier by an authorized user, as disclosed in Moshfeghi et al.

Killcommons et al. in view of Moshfeghi et al. do not disclose displaying a template on said web page, wherein said template comprises an image which said authorized user may place on one of said medical images. Kennedy discloses overlaying a template on a medical image (Kennedy: column 13, lines 49-62; column 14, lines 20-23). While the template disclosed in Kennedy is not displayed on a web page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image of a product, as disclosed in Knight (Knight: abstract). Knight further discloses displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information cost, description, indication of use, and instruction for use (each of Figs. 3A-3F show the display of the name of the manufacturer, "PromoCity.com™"). As mentioned above with respect to claim 1, one of

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ordinary skill in the art would have recognized that by applying the teaching of Knight, a physician would be able to overlaying a template on a medical image obtained from a web page, so that the physician may be able to determine a proper design of a medical device to be implanted in a patient. Therefore, it would have been obvious for one of ordinary skill in the art to modify the combined teaching of Killcommons et al. and Moshfeghi et al. by providing for the display of a template placed on a medical image on a web page, as suggested by the combined teaching of Kennedy and Knight.

Regarding claim 17, Killcommons et al. disclose a method for facilitating the transmission and display of medical images for viewing, via a server and a network, the method comprising: receiving said medical images on said server from one or more uploaded locations (Killcommons et al.: column 7, lines 23-43); storing said medical images on said server (column 7, lines 52-65); accepting a log-on request from a user to log onto said server and accepting a viewing request from said user to view at least one of said medical images (column 9, lines 12-15); displaying said at least one of the medical images to said user, based on said viewing request (column 9, lines 15-21); accepting one or more messages from said user, displaying said one or more messages and displaying said at least one of said medical images and said one or more messages to a second user (column 14, lines 48-57).

Killcommons et al. do not disclose inputting a unique identifier. Moshfeghi et al. disclose this limitation (Moshfeghi et al.: column 6, lines 49-62). As mentioned about with respect to claim 14, it would have been obvious to one of ordinary skill in the art that allowing only authorized users to view the medical images ensures patient

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confidentiality, data integrity and security. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for input of a unique identifier by each one of plural authorized users, such as disclosed in Moshfeghi et al.

Neither Killcommons et al. nor Moshfeghi et al. disclose allowing said authorized user to place at least one template on said at least one of said medical images, or allowing said authorized user to move said at least one template to move said at least one template to another location on said at least one of said medical images. As mentioned above with respect to claim 1, Kennedy discloses overlaying a template on a medical image (Kennedy: column 13, lines 49-62; column 14, lines 20-23). As mentioned above with respect to claim 5, Kennedy further discloses enabling said authorized user to move said at least one template to a plurality of locations on a viewing device (column 13, lines 49-53). While the template disclosed in Kennedy is not displayed on a web page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image of a product, as disclosed in Knight (Knight: abstract). Knight further discloses displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information cost, description, indication of use, and instruction for use (each of Figs. 3A-3F show the display of the name of the manufacturer, "PromoCity.comTM"). As mentioned above with respect to claim 1, one of ordinary skill in the art would have recognized that by applying the teaching of Knight, a physician would be able to overlaying a template on a

medical image obtained from a web page, so that the physician may be able to determine a proper design of a medical device to be implanted in a patient. Therefore, it would have been obvious for one of ordinary skill in the art to modify the combined teaching of Killcommons et al. and Moshfeghi et al. by providing for the display of a template placed on a medical image on a web page, as suggested by the combined teaching of Kennedy and Knight.

5. Claims 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killcommons et al. in view of Kennedy and Knight.

Regarding claims 18, 19 and 21, Killcommons et al. disclose a system for facilitating the display of medical images, comprising: a server for receiving said medical images from one or more uploading sites (Killcommons et al.: column 7, lines 23-43); a processor for processing requests of one or more users to log onto said server and view said medical images (column 9, lines 12-15); and a network for delivering said medical images to said one or more users (column 7, lines 52-55; column 9, lines 15-21). Said server is further configured to store said medical images and further comprises a database for storing general medical information and patient information (column 16, lines 17-21).

Killcommons et al. do not disclose a database for storing at least one template, wherein said at least one template is configured to be displayed with one or more of said medical images. As mentioned above with respect to claim 1, Kennedy discloses overlaying a template on a medical image (Kennedy: column 13, lines 49-62; column 14, lines 20-23). While the template disclosed in Kennedy is not displayed on a web

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page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image of a product, as disclosed in Knight (Knight: abstract). Knight further discloses displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information cost, description, indication of use, and instruction for use (each of Figs. 3A-3F show the display of the name of the manufacturer, "PromoCity.com™"). As mentioned above with respect to claim 1, one of ordinary skill in the art would have recognized that by applying the teaching of Knight, a physician would be able to overlaying a template on a medical image obtained from a web page, so that the physician may be able to determine a proper design of a medical device to be implanted in a patient. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for the display of a template placed on a medical image on a web page, as suggested by the combined teaching of Kennedy and Knight.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killcommons et al. in view of Kennedy and Knight as applied to claim 18 above, and further in view of Moshfeghi et al.

Killcommons et al. do not disclose said processor comprising: a storage module for storing unique user identifiers; a comparison module for comparing said stored unique user identifiers with input unique user identifiers input by users; and an authorization module for analyzing results from said comparison module and authorizing or denying user log-on requests based on said results. Moshfeghi et al. disclose these

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limitations (Moshfeghi et al.: column 2, lines 26-42; column 6, lines 49-62). As mentioned above with respect to claims 1, 13, 14 and 17, it would have been obvious to one of ordinary skill in the art that allowing only authorized users to view the medical images ensures patient confidentiality, data integrity and security. Therefore, it would have been obvious for one of ordinary skill in the art to modify the teaching of Killcommons et al. by providing for input of a unique identifier by an authorized user, as disclosed in Moshfeghi et al.

Response to Arguments

7. Applicant's arguments filed in response to the rejection of the above claims under 35 U.S.C. 103(a) as set forth in the prior Office action have been fully considered but they are not persuasive.

Applicant asserts, on page 7 of the amendment filed July 28, 2005, that Killcommons and Moshfeghi are "generally directed toward systems for facilitating communication of medical information, rather than a diagnostics tool for the selection of implant devices (lines 5-10), and "[a]s such, neither Killcommons, Moshfeghi nor a combination thereof disclose or suggest 'displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information, cost, description, indication of use, and instruction for use' as similarly recited by amended claims 13 and 14" (lines 25-29). However, it should be noted that claim 14, contrary to applicant's assertion, has *not* been amended to include the displaying of information associated with a template. Furthermore, it has been mentioned above that Knight

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discloses display of at least a manufacturer identifier (each of Figs. 3A-3F show the display of the name of the manufacturer, "PromoCity.comTM").

Applicant assets, on page 8 of the amendment, that "Kennedy discloses a system for interactively designing prosthetic implants using two x-ray images to create an implant topology which is later used to manufacture an implant. Knight is limited to a method for enabling remote users to superimpose product logos and other designs onto digitized images of a variety of products (e.g., coffee mugs, watches, baseball caps, tee shirts, etc.). According to Knight, a user superimposes graphics onto a digital image only to determine a design and design placement that best suits their needs and preferences," (lines 15-20) and "neither Kennedy nor Knight disclose 'displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information, cost, description, identification of use, and instruction for use' as similarly recited by amended independent claims 1 and 17" (lines 21-24, also note page 9 of the amendment, at lines 7-10, with regard to claim 18). As mentioned above, this limitation is disclosed in Knight. Regardless of the purpose intended by the display of a template in Knight, one of ordinary skill in the art would have recognized that a template may be placed over a digitized image appearing on a web page, so that a viewer can observe how the image would appear with the template superimposed thereon. One of ordinary skill in the art would have recognized that by applying the teaching of Knight, a physician would be able to overlaying a template on a medical image obtained from a

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web page, so that the physician may be able to determine a proper design of a medical device to be implanted in a patient.

Applicant asserts that the dependent claims differentiate from the cited references, based on their dependence from the above independent claims. However, the independent claims do not differentiate from the cited references, as mentioned above, and thus the rejections of the dependent claims are maintained.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (571) 272-

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7436. The examiner can normally be reached on Monday-Friday (7:30-5:00), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas D. Lee
Primary Examiner
Art Unit 2624

tdl
October 13, 2005